

# *Virginia Competitive Government Act*

## *Virginia General Assembly legislation creating the Competitive Government Act (Act)*

House Bill 1043 (2004 session) became Chapter 994 of the Virginia Acts of Assembly – 2004 reconvened session, and as amended by House Bill 2844 (2005 session) became Chapter 566 of the Virginia Acts of Assembly

For your convenience, the legislation is shown in two ways: One via the Internet and the reprinting of it on this page:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-5512>  
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-5513>

§ 2.2-5512. Definitions.

As used in this chapter:

"Commercial activity" means an activity performed by or for state government that is not an inherently governmental activity and that may feasibly be obtained from a commercial source at lower cost than the activity being performed by state employees.

"Commercial source" means any business or other private concern that is eligible for contract awarded in accordance with the Public-Private Education and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.) or the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.).

"State employee" means all persons employed by the Commonwealth to provide services, including both salaried and wage employees, and all persons engaged to perform work for or to provide services to the Commonwealth.

§ 2.2-5513. Responsibilities of Governor to ensure efficiency in government.

1. A. The Governor shall cause to be conducted an examination of the commercial activities that are being performed by state employees at state agencies and institutions to ensure such activities are being accomplished in the most cost-efficient and effective manner.

B. The examination required by subsection A shall be completed at least once in every two-year period and may be conducted entirely by a commercial source through a solicitation process as provided in the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.).

C. The examination required by subsection A shall consider at least three commercial activities as the Governor or the commercial source may identify.

D. Upon determination that outsourcing a commercial activity may result in reduced costs or otherwise provide a measurable benefit to the Commonwealth and to assure such activities are being accomplished in the most cost efficient and effective manner, the Governor shall cause that commercial activity to be competed in accordance with the Virginia Public Procurement Act or by using the processes described in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.).

2. That to implement the provisions of this act, no later than July 1, 2004, the Governor shall direct the Secretaries of Administration, Finance, and Technology to

- (i) develop a methodology for updating the inventory of commercial activities previously developed by the Commonwealth Competition Council;

- (ii) provide guidance in determining functions that should be performed by state employees because they are inherently governmental in nature, and those that may be suitable for cost comparison analyses;

- (iii) determine which commercial activities are suitable for consideration for outsourcing at the agency level and which should be the subject of enterprise-wide approaches;

- (iv) provide guidance to agencies and institutions in making realistic and fair cost comparisons for contracting with the private sector; and

- (v) recommend such other actions as may be necessary and appropriate to procure the services, and develop the reports provided for in the third enactment of this act.

3. That the initial examination required by this act shall result in a report being completed by the Secretary of Administration, in consultation with the Secretary of Finance and the Secretary of Technology, and presented to the Governor, the chairs of the House Committee on Appropriations and the Senate Committee on Finance, and such other entities as the Governor may designate no later than October 1, 2005. Thereafter, once in each biennium, the examination of commercial activities not already examined by a commercial source in a preceding report, shall be conducted and reported to the Governor, the chairs of the House Committee on Appropriations and the Senate Committee on Finance, and such other entities as the Governor may designate no later than October 1 of the second year of each biennium.

This Act requires the Governor to conduct a biennial enterprise-wide examination of the commercial activities that are being performed by state employees at state agencies and institutions to ensure that these activities are being accomplished in the most cost-efficient and effective manner.

The Governor and his administration have been, and remain, committed to serving the needs of Virginia's citizens through a state government that provides services in the most efficient and effective manner possible. Executive Order 5 (Governor Mark Warner administration) established the Governor's Commission on Efficiency and Effectiveness on January 5, 2002. There have been many initiatives and activities conducted over the last three and a half years where efficiency and effectiveness measures have been implemented in accordance with the recommendations of that commission.

As required by this Act, the Governor shall cause to be conducted an examination of the commercial activities that are being performed by state employees at state agencies and institutions to ensure such activities are being accomplished in the most cost-efficient and effective manner. In the first report under the newly-enacted Virginia Competitive Government Act, Governor Warner identified three enterprise-wide commercial activities in 2005 for assessment, re-engineering and possible outsourcing:

1. fleet operations and maintenance
2. seat of government mail operations and services
3. real estate operations and services

### *Next step*

Upon determination that outsourcing one or all of the above commercial activities may result in reduced costs or otherwise provide a measurable benefit to the Commonwealth and to assure such activities are being accomplished in the most cost efficient and effective manner, the Governor shall cause that commercial activity to be competed in accordance with the Virginia Public Procurement Act or by using the processes described in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.).

The process repeats itself every two years. The examination of commercial activities not already examined in a preceding report is to be conducted and similarly reported no later than October 1 of the second year of the biennium (2007, 2009, 2011, etc.).

## *Definitions in the Act*

The legislation defines commercial activities, commercial source, and state employees as follows:

“Commercial activity” means an activity performed by or for state government that is:

- not an inherently governmental activity and
- one that may feasibly be obtained from a commercial source at lower cost than the activity being performed by state employees

“Commercial source” means any business or other private concern that is:

- eligible for a contract awarded in accordance with the
  - Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) or
  - Virginia Public Procurement Act (§ 2.2-4300 et seq.)

“State employee” means all persons:

- employed by the Commonwealth to provide services, including both salaried and wage employees, and
- all persons engaged to perform work for or to provide services to the Commonwealth

## *Specific Requirements of the Act*

### *The examination*

- Is to be completed at least once in every two-year period
- May be conducted entirely by a commercial source through a solicitation process as provided in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)
- Shall consider at least three commercial activities as the Governor or the commercial source may identify

### *Upon determination*

- That outsourcing a commercial activity may result in reduced costs or
- Otherwise provide a measurable benefit to the Commonwealth and
- To assure such activities are being accomplished in the most cost efficient and effective manner

The Governor shall cause that commercial activity to be competed in accordance with:

- Virginia Public Procurement Act (§ 2.2-4300 et seq.) or
- Using the processes described in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)

### *Implementation*

In preparation for the first report which was due October 1, 2005, and then every two years thereafter on October 1:

Secretaries of Administration, Finance, and Technology to:

1. Develop a methodology for updating the previously issued Commonwealth Competition Council commercial activities inventory (1999)
2. Provide guidance in determining functions that should be performed by state employees because they are inherently governmental in nature and those that may be suitable for cost comparison analyses
3. Determine which commercial activities are suitable for enterprise-wide approaches
4. Provide guidance to agencies and institutions in making realistic and fair cost comparisons for contracting with the private sector
5. Recommend such other actions as may be necessary and appropriate to procure the services
6. Develop biennial reports on October 1 of every odd-numbered year (2007, 2009, etc.)

### *Reporting Requirements*

Report to be prepared by:

Secretary of Administration

- in consultation with the Secretary of Finance and the Secretary of Technology

Report presented to:

- Governor
- Chairs:
  1. House Committee on Appropriations

2. Senate Committee on Finance
- Such other entities as the Governor may designate

Reporting dates:

Initial report

- Initial examination no later than October 1, 2005

Subsequent reports

- Thereafter, once in each biennium by no later than October 1 of the second year of the biennium (2007, 2009, 2011, etc.)

### *Initial Commercial Activities Inventory (2004-2005)*

All requirements of the Act have been met.

As required by the legislation, the Governor identified these three enterprise-wide initiatives for 2005:

1. Fleet operations and maintenance
2. Seat of government mail operations and services
3. Real estate operations and services

The initial report on this Act follows.

Document in pdf. format available from

Virginia Legislative Information System  
Report Document 170 (2005)  
<http://leg2.state.va.us/DLS/H&SDocs.NSF/4d54200d7e28716385256ec1004f3130/8fb739f7a1312f9685256ec500553c57?OpenDocument>

## *Commonwealth of Virginia*

### *Executive Department*

### *Commercial Activities Inventory for the 2004-2005 fiscal year*

Transmittal Letter

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